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October 30, 1997

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

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Preemption of State and Local Zoning and

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MM Docket No. 97-182

Land Use Restrictions on the Siting,

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Placement and Construction of Broadcast

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Station Transmission Facilities

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COMMENTS OF NEW MEXICO BROADCASTING COMPANY

New Mexico Broadcasting Company strongly supports the preemption of State and Local Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Station Transmission Facilities. As preparations are now underway for the roll out of digital television services, many stations will be required to modify or build new towers to

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support the needed DTV and NTSC antenna systems required during the simulcast period. In addition, many broadcast facilities share their towers with FM radio stations and other private use radio systems. The increased tower capacity required for DTV/NTSC simulcast will in many areas require that these ancillary services be removed from their existing towers. Traditional tower approval processes will greatly impair the abilities of television stations to meet the FCC deadline on DTV and may ultimately delay the public reception of this exciting new service.

New Mexico Broadcasting certainly does not advocate the construction of new towers for broadcast use without consideration to the surrounding environment. However, our experiences at making modifications to existing towers have been subjected to needless delays. This occurs on the local, state and federal level. Our most recent experience with the modification of our tower at the Sandia Crest Electronics Site clearly indicates this problem. We spent over two years working with the Forest Service getting their approval of the technical aspects of a tower redesign. No one that we dealt with at the Forest Service had any understanding of the technical data they were requiring us to supply so each item that was supplied was sent to different agency for analysis. Despite the fact that all documents, plans and construction was done by licensed professional engineers and closely monitored. This added many months to our construction project which by the FCC's definition was a minor modification. Although this delay was from a federal agency there are numerous examples of local and state delays.

In Charleston, West Virginia, WSAZ TV had a 70 foot tall microwave tower destroyed by

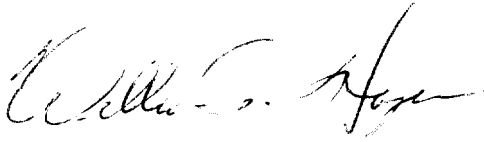
a windstorm. The replacement tower was delayed because the contractor that the tower manufacture hired to erect the replacment tower was licensed in Pennsylvania and not to West Virginia. The process was delayed for several months pending the contractor taking a test for West Virginia and awaiting the results of the test. WSAZ experienced a similar delay in the construction of a tower for LPTV K23BH. This time the contractor was licensed for Kentucky and West Virginia but had not been approved for work in Kanawha County.

I have also worked for television stations in Honolulu, Hawaii where the majority of the television and radio station transmitters are located on high-rises. The broadcasters in this area have for years lobbied to be allowed to move their transmitters to a common site on the mountains above Honolulu but local authorities have denied this siting environmental concerns. While testifying at a City Council meeting on behalf of the station I was working for, a member of the citing council verbally abused myself and the other broadcast engineers that were there trying to explain why moving to a common site in the mountains would not only improve broadcasting for the public but would also eliminate a potential health issue caused by non-ionizing radiation in Honolulu. At this time, the majority of broadcast stations in Hawaii are still located on high-rise building in Honolulu.

In conclusion, the examples that I have sited are fairly typical of the problems faced by broadcasters. Given the scope of the work that needs to be done for the introduction of DTV to the United States, unless there is a federal preemption of local and state authorities, DTV will not proceed in a timely manner and indeed may die on the vine

waiting for local approval.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "William T. Hayes". The signature is fluid and cursive, with a prominent initial "W" and a long, sweeping underline.

William T. Hayes
Director of Engineering
New Mexico Broadcasting Company